

Remarks

In view of the following remarks, favorable reconsideration of the outstanding office action is respectfully requested. Claims 1 – 50 remain in this application.

1. Piecemeal Examination

The Examination process is supposed to determine patentability in a timely and fair manner. According to MPEP 904.03, “it is a prerequisite to a speedy and just determination of the issues involved in the examination of an application that a careful and comprehensive search...be made in preparing the first action on the merits so that the second action on the merits can be made final or the application allowed with no further searching other than to update the original search.” Moreover, MPEP §707.07(g) instructs the Examiner to avoid “piecemeal examination.” The examiner ordinarily should reject each claim on all valid grounds available...with a full development of reasons rather than by a mere conclusion coupled with some stereotyped expression.”

In a previous office action the drawings were objected to because they did not show a spring moving between an “in-tension” position and an “in-compression” position. In the latest Office Action, the Drawings are objected to because the subject matter of claim 7 and claim 19 are allegedly not shown. The Examiner’s objections should have been presented in the previous Office Action to avoid piecemeal examination. Similarly, the Examiner now objects to the specification. This issue was not raised in the previous office action.

Finally, the instant office action includes another prior art rejection based on related art that has been on the record from the beginning. If the Examiner felt that the current § 103 rejection is better than the previous § 103 rejection it should have been raised instead of the previous one. The applicants understand and appreciate the fact that the Examiner is merely “doing his job” as it were, but at the same time, applicants hope that the Examiner appreciates that the applicants are on a budget and that piecemeal examination is inefficient, time consuming and costly.

2. Drawings

The Examiner has objected to the drawings under 37 C.F.R. 1.83 (a) because they fail to show the subject matter of claim 7 and claim 19.

In particular, claim 7 recites that “*the plug contact blades simultaneously move the first shutter blade member and the second shutter blade member toward one another...*” The applicants respectfully point out that the shutter mechanism is shown in detail in Figure 5 and Figure 6. The motion of the recited blade members must be inferred from the aforementioned Figures, otherwise, applicants would need to provide a motion picture of the device in action. Since this is not a requirement under 37 C.F.R. 1.83 (a), the objection should be withdrawn.

With respect to Claim 19, the Examiner is correct in asserting that a slide assembly for a plug ground contact blade is not explicitly shown. However, applicants respectfully point out that a written description is provided starting at the end of page 11 in the specification. The last sentence in the paragraph reads that the “second shutter mechanism (i.e., for the ground opening) is *similar to shutter mechanism 30, with the exception that one of the slide assemblies is omitted* (because there is only the ground blade opening, not the hot and neutral openings). Accordingly, applicants submit that a separate Figure for the ground shutter mechanism is not required. However, if the Examiner insists, the applicants would be pleased to provide a supplemental Figure showing the shutter mechanism described in the specification.

In light of the foregoing comments, the applicants respectfully request that the objection to the drawings be withdrawn.

3. Specification

The Examiner has objected to the specification because the reference numeral in the term “flexible membrane 100” (Page 12, line 19) is incorrect. The applicants agree with the Examiner and have provided a replacement paragraph amending the term to consistently read “flexible membrane 200”.

4. Allowed Claims/Subject Matter

Applicants note with appreciation the Examiner’s allowance of claims 26 - 46. The applicants also note with appreciation that the Examiner has indicated that the subject matter of claims 3 – 4 and 16 – 18 are patentable, and would be allowable if rewritten in independent form.

5. Response to Arguments

The applicants appreciate the Examiner's thoughtful discussion of the previous § 103 rejection. The applicants also thank the Examiner for withdrawing the § 103 rejection in response to the applicants' arguments.

6. § 103 Rejections

A. The Examiner has rejected claims 1, 5 – 15, 23 – 25, and 47 – 48 under 35 U.S.C. § 103 as being unpatentable for obviousness over U.S. Patent No. 5,006,075 to Bowden, Jr. in view of U.S. Patent No. 3,845,234 to Brenner.

Claim 1 is directed to a protection device including line terminals coupled to a power source disposed in an electric power distribution system. The protection device is configured to protect a portion of the power distribution system from at least one fault condition. The device includes a receptacle member including a housing and a cover assembly. The cover assembly includes receptacle openings configured to accommodate plug contact blades. Receptacle contacts are disposed in the housing and coupled to the line terminals to thereby establish an electrical connection between the receptacle contacts and the line terminals, each receptacle contact being in communication with a corresponding receptacle opening. A protective shutter mechanism is integrated into the housing. The protective shutter mechanism being movable from a closed position to an open position upon insertion of the plug contact blades. The protective shutter mechanism is substantially sealed in the closed position and not movable from the closed position to the open position upon insertion of an object into one receptacle opening, whereby the object is prevented from making contact with the corresponding receptacle contact.

Claim 47 is directed to a protection device including line terminals coupled to a power source disposed in an electric power distribution system. The protection device is configured to protect a portion of the power distribution system from at least one fault condition. The device includes a receptacle housing including receptacle openings configured to accommodate plug contact blades. Receptacle contacts are disposed in the housing, each receptacle contact being in communication with a corresponding receptacle opening. A protective membrane is disposed in the housing and including a sealable hole for each

receptacle opening. Each sealable hole is movable from a closed position to an open position upon insertion of a plug blade into the corresponding receptacle opening, the sealable hole being substantially sealed in the closed position.

Bowden is directed to an electrical receptacle having openings to receive a plug having either parallel or tandem (perpendicular) blades, and a safety shutter assembly having elements positioned behind the openings to prevent insertion into the electrical contacts of the receptacle of items other than the intended plugs. The shutter assembly includes three individual shutter elements, each positioned upon a spacer element in the back of the receptacle cover for sliding movement thereon. Two of the shutter elements each include a camming portion and a blocking portion, and are positioned for movement by insertion of the blades of a parallel blade plug to permit the blades to be received in the receptacle contacts. The third shutter element is positioned for movement, together with the other two shutter elements, by insertion of a tandem blade plug to permit the blades thereof to be received in the proper contacts. The first two shutter elements are returned to their original positions by springs upon removal of the plug, and the third element is configured and arranged for return movement by one of the spring-biased elements.

Brenner is directed to an exterior mounted gasket that is clamped between a receptacle and a cover plate. The gasket extends over the receptacle sockets. The gasket is installed by removing the cover plate, inserting the gasket between the back of the cover plate and the front of the receptacle, inserting a screw through the cover plate and a hole in the gasket, and tightening the screw.

According to the **MPEP 2143**, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

i.) The prior art references do not teach or suggest all the claim limitations.

Independent claim 1 is directed to a protection device configured to protect a portion of the power distribution system from at least one fault condition, the device including a protective shutter mechanism that is movable from a closed position to an open position upon insertion of the plug contact blades. Neither Bowden nor Brenner, whether taken alone or in combination teach or suggest a “*protection device configured to protect a portion of the power distribution system from at least one fault condition,*” as recited in claim 1. On example of a protection device as defined in the specification is a GFCI (See Figure 8). Neither reference discloses one.

Claim 1 also recites “a protective shutter mechanism integrated into the housing...the protective shutter mechanism being substantially sealed in the closed position and not movable from the closed position to the open position upon insertion of an object...” This subject matter is explicitly defined in Figures 5 – 7. The shutter mechanism as defined herein includes both shutter 30 and flexible membrane 200 integrated into the housing. Bowden discloses a shutter mechanism that is not sealed in the closed position. Brenner includes a sealing member that is not integrated into the housing. Brenner explicitly states (at col. 2, lines 3 – 6) that “The gasket is then sandwiched *between the back of the faceplate 2 and the front of receptacle 1...*” Faceplate 2 is clearly shown in Figure 3 as being a standard wall plate. Therefore, even if one were to combine Bowden and Brenner, neither Bowden nor Brenner, whether taken alone or in combination, teach or suggest the “*protective shutter mechanism integrated into the housing...the protective shutter mechanism being substantially sealed in the closed position...*”

The claims depending from claim 1 are allowable by virtue of their dependency from claim 1 and in their own right. Claim 23, for example, recites “a protective membrane integrated into the housing...” neither Bowden nor Brenner, whether taken alone or in combination, teach or suggest a protective membrane integrated into the housing.

Independent claim 47 is directed to *a protective device configured to protect a portion of the power distribution system from at least one fault condition*. Neither Bowden nor Brenner, whether taken alone or in combination teach or suggest a “protection device

configured to protect a portion of the power distribution system from at least one fault condition,” as recited in claim 47.

Claim 47 also recites “*a protective membrane disposed in the housing and includes a sealable hole for each receptacle opening, each sealable hole being movable from a closed position to an open position upon insertion of a plug blade into a corresponding receptacle opening.*” The Examiner fails to show where Bowden discloses this feature. As noted above, Brenner teaches a gasket that is placed over an exterior portion of the receptacle. Thus, the Examiner does not show where Bowden or Brenner, whether taken alone or in combination, teach or suggest a protection device, or any wiring device that includes sealable holes that are movable from a closed position to an open position, or a protective member disposed in a housing, as recited in claim 47.

Claim 48 is allowable in its own right and also by virtue of its dependency from claim 47. Neither Bowden nor Brenner teach or suggest, whether taken alone or in combination, “*a manually operable button mechanism including an arm configured to be insertable through a hole in the protective membrane,*” as recited in claim 48.

ii.) There is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

The Examiner asserts that one of ordinary skill in the art would be motivated to combine Bowden and Brenner because Brenner teaches that an exterior mounted gasket will protect a receptacle from foreign materials. Like the previous statement argued by the Examiner, while the Examiner’s motivational statement may be true on its face (which it is not), it is a “straw-man” argument in that it misstates the subject matter of claim 1 and claim 47 in order to facilitate the rejection. It is irrelevant with respect to the question of whether one skilled in the art would be motivated to provide an exterior gasket over a shuttered safety receptacle because the claimed invention is not directed to this subject matter.

On the other hand, even if one were to argue that some theoretical reference did teach the disposition of a membrane inside the receptacle, there would be no motivation to combine because it would change the principle of operation of the prior art invention (Bowden) being modified because Bowden explicitly discloses a shutter designed to “nest within a recess in

the back of the receptacle cover...” Thus, Bowden would have to be redesigned to accommodate any membrane inserted therebetween, the redesign changing its principle of operation.

Accordingly, claims 1, 5 – 15, 23 – 25, and 47 – 48 are patentable under 35 U.S.C. § 103(a). The applicants respectfully request that the rejection of claims 1, 5 – 15, 23 – 25, and 47 – 48 under 35 U.S.C. § 103 be withdrawn.

B. The Examiner has rejected claims 2, 20 – 22 and 49 - 50 under 35 U.S.C. § 103 as being unpatentable for obviousness over Bowden in view of Brenner and further in view of U.S. Patent No. 6,587,319 to Finlay.

Claim 49 is directed to a protection device for use in an electric power distribution system. The protection device is configured to protect a portion of the power distribution system from at least one fault condition. The device includes a housing assembly that includes at least one aperture. A protective membrane is integrated into the housing assembly and includes at least one sealable hole. A fault detection circuit is disposed on a circuit board. The fault detection circuit is configured to detect at least one fault condition and provide a fault detect signal in response thereto. Interrupting contacts are coupled to the fault detection circuit. The interrupting contacts are configured to disconnect the at least one receptacle from the electric power distribution system in response to receiving the fault detect signal. A manually operable assembly corresponds with the at least one aperture. The assembly includes an arm that passes through the sealable hole. The sealable hole and the arm are substantially sealed by the protective membrane.

Bowden and Brenner were discussed above in detail. Finlay is directed to an AC power line protection device which includes miswiring protection that has an indicator lamp which lights when the device is in the tripped condition and turns off when the device is reset. If the device is miswired after having been wired properly, the indicator lamp does not light when the device is tripped, and so provides a supplemental indication of miswiring. The indicator lamp is powered via the hot line bus bar of the interrupting contacts to meet safety standards.

i.) The prior art references do not teach or suggest all the claim limitations.

The Examiner fails to show where either Bowden, Brenner, or Finlay, whether taken alone or in combination, teach or suggest a *protective membrane integrated into the housing assembly and including one sealable hole* as recited in claim 49. The Examiner fails to show where either Bowden, Brenner, or Finlay, whether taken alone or in combination, teach or suggest a *manually operable assembly including an arm that passes through the sealable hole*, as recited in independent claim 49.

Claims 2 and 20 – 22 depend from claim 1, and the Examiner makes no representation that Finlay remedies the deficiencies of Bowden, and Brenner with respect to claim 1. As such, claims 2 and 20 – 22 are allowable by virtue of their dependency from claim 1. Claim 50 depends from claim 49 and is, therefore, allowable by virtue of its dependency from claim 49. However, the dependent claims are allowable in their own right. Claim 50, for example recites a plurality of sealable holes disposed in the protective membrane integrated in the housing. The Examiner does not show where any of the references teach or suggest this claim limitation.

ii.) There is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

The Examiner states that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have an arm “that would connect with the test button.” Once again, the Examiner presents a straw-man argument that does not accurately reflect the claimed invention. One of ordinary skill in the art will understand that reset and test mechanisms may be constructed to include a button connected to an actuator arm. However, this is not the subject matter recited by the claimed invention. Claim 49 is directed, in part, to *an arm that passes through the sealable hole...substantially sealed by the protective membrane disposed in the housing*. Neither Bowden, Brenner, nor Finlay, whether taken alone or in combination teach or suggest this feature. Accordingly, there can be no suggestion or motivation to combine these references in the manner suggested by the Examiner.

Accordingly, the applicants respectfully assert that claims 2, 20 – 22 and 49 - 50 are allowable under 35 U.S.C. § 103 and respectfully request that rejection be withdrawn.

7. Conclusion

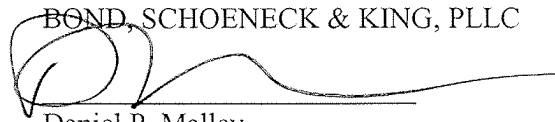
Based upon the remarks, amendments and papers of record, Applicants believe the pending claims of the above-captioned application are in allowable form and patentable over the prior art of record. Applicants respectfully request reconsideration of the pending claims 1 – 50 and a prompt Notice of Allowance thereon.

Applicants believe that no extension of time is necessary to make this Response timely. Should Applicants be in error, Applicants respectfully request that the Office grant such time extension pursuant to 37 C.F.R. § 1.136(a) as necessary to make this Response timely, and hereby authorizes the Office to charge any necessary fee or surcharge with respect to said time extension to the deposit account of the undersigned firm of attorneys, Deposit Account 50-1546.

Please direct any questions or comments to Daniel P. Malley at (607) 330-4010.

Respectfully submitted,

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